IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 20715 of 2004

Between:

Smt.P.Vijaya, W/o P.S.Naidu,
R/o Saripalli Village, Nellimarla Mandal, Vizianagaram District **..... PETITIONER**

AND

1 The Principal Secretary, I & CAD, Govt.of Andhra Pradesh,
Secretariat Buildings, Hyderabad
2 The Secretary, Irrigation 'J' Block, Secretariat Buildings, Hyderabad
3 The Chief Engineer, Irrigation, Erramanzil, Hyderabad
4 The Collector & District Magistrate, Vizianagaram District
5 The Superintending Engineer, TTPR, Circle VUDA Complex,
Opp.RTC Complex, Vizianagaram District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly in the nature of Writ of Mandamus declaring the proposed construction of "TARAKARAMA THIRTHASAGARAM RESERVOIR PROJECT" in Kumili Village, Pusapatirega Mandal, Vizianagaram District being illegal, unjust, arbitrary, wastage of public money being constructed in the epicentre of heavy Earth-quake as per the report dated 25-08-2004 of India Metrological Department, New Delhi and violative of Article 14 of the Constitution of India

Counsel for the Petitioner:MR.E.V.BHAGIRATHA RAO

Counsel for the Respondent Nos.1 to 4: Advocate General

Counsel for the Respondent No.5: Mr. C.V. Mohan Reddy

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

Petition is filed as “Public Interest Litigation”, by a member of Mandal Parishad, Saripalli Village, Nellimarla Mandal, Vizianagaram District against the proposed construction of barrage across the river Champavathi near Kota Gandredu Village in Gurla Mandal with a view to divert the water to Pedda Tank of Kumili Village in Pusapatirega Mandal through a canal of about 20 k.m. length.

The whole grievance of the petitioner is that she along with the Member of Parliament, Bobbili and the President of Kudipi Cheruvu water Users Association, Seripalli Village and the Sarpanch of Saripalli Gram Panchayat, with numerous villagers, sent a representation against the proposal for construction of Tarakaramathirtha Sagaram Project. Besides fling objections, it is stated that as per the report of the Indian Metrological Department, New Delhi, the proposed project area is within the seismic zone and might cause damage to the proposed construction. Therefore, it is not advisable to have the proposed project. Accordingly, directions are sought to restrain the respondents from implementing the project.

Sri R.B.R. Prasad, Superintending Engineer, Vizianagaram who is working as Chief Engineer and holding additional charge of Superintending Engineer, Totapally Tarakarama Peddagadda Reservoir Circle, Vizianagaram, has filed affidavit stating that the Government has proposed to construct barrage across Champavathi River to store water in proposed reservoir and to distribute the same through canals of 25.375 kms.

The affidavit in reply furnishes the details of the project as also the Ayacuts covered under the Denkada Canal and the proposed Tarakaramatheertha Sagaram Project. It is stated that the Ayacut of three villages, namely, Denkada, Pedada and Bantupali located at lower contour is served by Denkada Channel System and the Ayacut at higher level will be served by the proposed Tarakaramathirtha Sagaram Reservoir Project Scheme. It is further stated that the Ayacut mentioned under Goddupalem Project is wet Ayacut located in Pinathadiwada and Pedda Villages whereas the proposed Ayacut in the villages 13 to 15 is completely dry and it is proposed to command through Tarakaramathirtha Sagaram Reservoir Project Scheme.

Further, the existing Ayacut of the villages at Sl. Nos.1 to 5 in Bhogapuram Mandal under Denkada Channel system is entirely separate from the proposed Ayacut

under Tarakaramathirtha Sagaram Reservoir Project Scheme. Though the villages are one and the same, the Ayacut to be commanded is different and the sources are different. The Tarakaramathirtha Sagaram Reservoir Project Scheme Ayacut is contemplated to irrigate dry and wet lands of Sl. Nos. 1 to 17 covering an extent of 8037 acres as against 198 acres as alleged by the petitioner. The left main canal of Tarakaramathirtha Sagaram Reservoir Project Scheme is contemplated to stabilize the wet Ayacut, i.e., 4347 acres under the existing Kumili Channel system and tanks and in addition to irrigate a new dry Ayacut of 5576 acres situated in the villages 1 and 2 of Denkada Mandal and 1 to 12 of Pusapatirega Mandal. Further, the total land for acquisition required for submersion and construction is 2321 acres only and thus the Tarakaramathirtha Sagaram Reservoir Project Scheme is contemplated to irrigate an extent of 24,710 acres which includes new Ayacut of 16,538 acres and stabilization of 8172 acres under existing Kumili Channel System and rain fed tanks. In addition to the above Ayacut, Tarakarama Thirtha Sagaram Reservoir Project Scheme is contemplated to stabilize the Ayacut of 5203 acres of Denkada Anicut.

As regards the objections of the petitioner that Vizianagaram District is prone to slight tremors, it is stated that the Government of India, Central Water Commission, B.C.D (NW&NWS) Directorate have communicated seismic coefficient to be adopted for design of barrage at Kotagandredu Village of Vizianagaram District, Andhra Pradesh, which has been communicated to the Chief Engineer, CDO, Hyderabad, the highest authority for approving the designs for irrigation projects. Considering the norms, data and guidelines communicated by the Central Research Institute, New Delhi, the Central Water Commission, New Delhi and GSI etc., the seismic coefficient is being adopted for designing all Irrigation structures and every care is being taken to adopt the higher factor of safety to have stable and safe structures.

The affidavit in reply furnishes the details of the schemes taken on hand to help uplifting of socio economic conditions of the people of this region by providing assured water supply to the Ayacut and also for drinking purposes in the en route villages, at times of dire need. Petitioner’s grievances had been considered and it has been assured that all precautions are being taken considering the sensitivity of the area in question, which is prone to slight earth tremors.

Once petitioner’s grievances have been duly considered, we see no ground to

restrain the respondents from going ahead with the implementation of the project, which is intended for the larger benefit of the public in the remote corner of the State.

The writ petition is accordingly dismissed.

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DEVINDER GUPTA, CJ

Date: 27th January, 2005

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M. NARAYANA REDDY,J

Pnb

To

1 The Principal Secretary, I & CAD, Govt.of Andhra Pradesh, Secretariat Buildings, Hyderabad
2 The Secretary, Irrigation 'J' Block, Secretariat Buildings, Hyderabad
3 The Chief Engineer, Irrigation, Erramanzil, Hyderabad
4 The Collector & District Magistrate, Vizianagaram District
5 The Superintending Engineer, TTPR, Circle VUDA Complex, Opp.RTC Complex, Vizianagaram District

6 Two C.Cs. to the Advocate General, High Court Buildings,

Hyderabad(OUT).

7 Two C.D. copies